# Before The FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554



FEB 2 2 1999

PERSONAL GOMENHACATIONS COMMISSION OFFICE OF THE SECRETION

File No. NSD-L-98-136

CC Docket No. 96-98

#### In the Matter of

Petition of the California Public Utilities Commission and The People of the State of California For an Additional Delegation of Authority to Conduct NXX Code Rationing

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996

#### REPLY COMMENTS OF SBC COMMUNICATIONS INC.

Comments filed by the industry in this proceeding and the proceeding on reconsideration of the Commission's *Pennsylvania Numbering Order*<sup>1</sup> demonstrate near unanimity among the industry on the urgent need to end the shortages and rationing of Central Office codes throughout the nation.<sup>2</sup> No where is the need to end numbering shortages more pronounced than in the State of California.<sup>3</sup> To remedy this problem, SBC urges the Commission to grant the California Public Utilities Commission ("CPUC") additional authority to continue to conduct central office ("CO" or "NXX") code rationing in area codes before it has selected an area code relief plan and implementation date, on a temporary, conditional basis.

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<sup>&</sup>lt;sup>1</sup> In the Matter of the Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utilities Commission Regarding Area Codes 412, 610, 215 and 717, NSD File No. L-97-42, CC Docket 96-98, Memorandum Opinion and Order (released Sept. 28, 1998) [Pennsylvania Numbering Order].

<sup>&</sup>lt;sup>2</sup> See, e.g., Comments of Omnipoint Communications, Inc., at 1-2 (filed Feb. 5, 1999) [Omnipoint]; Comments of AT&T Corp. on Petitions for Reconsideration, at 3; Opposition to Petitions for Reconsideration of the Cellular Telecommunications Industry Association, at 3; Sprint PCS Opposition, 3-6, 13-18; all filed in NSD File No. L-97-42, CC Docket No. 96-98 (filed Feb. 4, 1999). Due to the overlap of issues and the contemporaneous briefing in this file and in NSD File L-97-42, some parties filed comments in NSD File L-97-42 that address issues in this file. See, e.g., Comments of GTE, NSD File No. L-97-42, CC Docket No. 96-98 (filed Feb. 4, 1999) [GTE]. The Commission should consider comments in NSD File No. L-97-42 in ruling on the California motion.

<sup>&</sup>lt;sup>3</sup> See generally Omnipoint, at 4; Comments of the California Cable Television Ass'n in Support of California's Petition, at 3 (filed Feb. 5, 1999) [CCTA].

This approach would provide the best way for the Commission to ensure compliance with its regulations and for the CPUC, the industry, and the Commission to cooperatively guarantee timely and efficient availability of numbering resources for all carriers in the State of California in the future.

The temporary and conditional nature of the grant of authority is important to ensure that carriers have timely, efficient, and nondiscriminatory access to numbering resources in the State of California. In addition to limiting the delegation to a period of 6 months, SBC's proposed conditions would require that the CPUC (working in conjunction with the North American Numbering Council ("NANC") and North American Numbering Plan Administrator ("NANPA"), where appropriate): (1) eliminate preferences for carriers in the monthly lottery within 30 days of the delegation of additional authority; (2) establish a program and detailed timetable for providing relief to area codes current in the lottery (within 60 days from the delegation of additional authority); and (3) establish and implement a plan with a definitive timetable for improving the California area code relief planning process (within 120 days from the delegation of additional authority).

Two commentors (CCTA and Focal Communications) imply that the existing lottery structure should be allowed to continue. However, the current 60/40 percent allocation of codes to new entrants and to existing carriers, respectively, is discriminatory on its face and in effect and violates Commission Rule 52.9(a)(2). In a series of decisions beginning with the Ameritech Numbering Order, the Commission has repeatedly stressed that numbering resources

<sup>&</sup>lt;sup>4</sup> CCTA, at 4-5; Initial Comments of Focal Communications Corporation, at 1-2.

<sup>&</sup>lt;sup>5</sup> See, e.g., GTE, at 6; Comments of Bell Atlantic, at 1-2; Comments of SBC Communications Inc., at 3 & n.3, 7-8.

must be available for all carriers on a nondiscriminatory, evenhanded basis.<sup>6</sup> In fact, the Commission has found that Congress, in passing the 1996 Act, intended that the Commission would "ensur[e] fair and impartial access to resources" precisely because such fair an impartial access was a "critical component" to competition.<sup>7</sup> The discrimination in the current lottery, and the lack of resources for all carriers, impedes both the letter and the spirit of the FCC regulations.<sup>8</sup>

It appears unlikely that the CPUC will eliminate the unlawful discrimination in its lottery unless directed to do so by the Commission. Even before the CPUC adopted the 60/40 allocation scheme, Pacific Bell informed the Commission that "[a]ny lottery of scarce NXX codes in NPAs which have reached a jeopardy condition should be completely random and should not favor any carrier or group of carriers over another. Only in this way can discrimination be eliminated." More recently, the CPUC has announced workshops concerning its lottery, with the express purpose of considering whether to increase the allocation of codes for new entrants.

The other two conditions proposed by SBC – working with NANPA and NANC to develop a timetable to end the existing lotteries and improve the area code relief planning process in California – are essential if the Commission is to ensure a timely and adequate supply

<sup>&</sup>lt;sup>6</sup> In the Matter of the Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, IAD File no. 94-102, 10 FCC Rcd. 4596, 4604 (¶19) (1995) [Ameritech Numbering Order]; Administration of the North American Numbering Plan, Report and Order, CC Docket No. 92-237, 11 FCC Rcd. 2588, 2591 (¶4), Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, CC Docket 96-98, 11 FCC Rcd. 19392, 19516-17 (¶281) [Local Competition 2d Report & Order].

<sup>&</sup>lt;sup>7</sup> Local Competition 2d Report & Order, at 19516-17 (¶ 281).

<sup>&</sup>lt;sup>5</sup> SBC agrees with MCI that rationing of any sort frustrates Congress's intent, and should only be permitted under exigent circumstances and as a last resort. See Opposition of MCI, at 17, NSD File No. L-97-42, CC Docket 96-98 (filed Feb. 4, 1999).

Position Paper of Pacific Bell, at 1-2, attached to Pacific Bell's Supplemental Filing on Behalf of the California Code Administrator Pursuant to Decision 96-06-062, AirTouch Comm. v. Pacific Bell and consolidated cases, Lead

of numbering resources in the State of California in the future. Just over two weeks ago, the CPUC issued a draft decision for relief of the 714 area code, where NXX codes have been in rationing for more than 2 years (since December, 1996). The proposed CPUC decision rejects the industry consensus to expedite the overlay relief implementation date, requiring that the overlay be implemented in January, 2001 (thus ensuring four years of constant rationing in the 714 NPA before relief). The State of California Statutes require at most only a 15-month implementation period, under which the overlay could easily be implemented in October 2000.10

This type of unnecessary delay in providing relief underscores the reasons for the current numbering crisis in California. In fact, these are the types of decisions that will make it difficult for the CPUC to eliminate the backlog of "pent up" demand for NXX codes and end the need for rationing of NXX codes in California. There is no good reason for this unnecessary three month delay in implementing relief, and there is absolutely no reason sufficient to justify an additional three months of rationing of NXX codes. Even more troublesome, however, is one of the justifications for delay offered in the proposed decision:

The scheduled date for the overlay in January 2001 will also provide additional time for the development of number pooling and other potential measures to maximize the availability of numbers in the 714 NPA for all carriers in the interests of competitive neutrality.<sup>11</sup>

Case No. 94-09-058 (Cal. P.U.C. filed July 31, 1996). For the convenience of the Commission, a copy of this position paper accompanies these comments in Attachment A.

The pre-1999 statute required a 15-month written notice to the public of the specific area that would be included in the new area code; the current statue has a less- 12 month notice requirement, which can be modified by the Commission. Compare Cal. Pub. Util. Code § 7930(c) with Assembly Bill No. 2716, Section 4(f)(1) & (2), copies provided in California Assembly Bill Petition of California Public Utilities Commission and the People of the State of California for Granting Additional Authority to Conduct NXX Code Rationing, Attachments 2 & 3. The CPUC scheduled the 424 area code to be overlaid over the 310 NPA within 14 months, and that was the first overlay area code ever in the State of California. It is illogical to assume that a second overlay would require more time to implement than the first, and the CPUC does not suggest any reason why it would.

<sup>&</sup>lt;sup>11</sup> See Draft Decision of ALJ Pulsifer, Order Instituting Rulemaking/Investigation on the Commission's Own Motion into Competition for Local Exchange Service, R.95-04-043/1.95-04-044 (released Feb. 2, 1999). For the Commission's convenience a copy of this proposed decision accompanies these comments in Attachment B.

This is precisely what the *Pennsylvania Numbering Order* told the CPUC it should <u>not</u> do – delay relief to assist in conservation.<sup>12</sup> A detailed program and timetable to end rationing and provide timely relief would ensure that such delays are not permitted, and relief is provided as quickly as practicable.

In sum, the Commission should grant additional authority to the CPUC to continue rationing of NXX codes in area codes where it has not yet adopted an area code relief plan or selected an implementation date, for a period of six months, subject to the CPUC, (working in conjunction with the NANC and NANPA, where appropriate): (1) eliminating preferences for carriers in the monthly lottery within 30 days of the delegation of additional authority; (2) establishing a program and detailed timetable for providing relief to area codes current in the lottery (within 60 days from the delegation of additional authority); and (3) establishing and implementing a plan with a definitive timetable for improving the California area code relief planning process (within 120 days from the delegation of additional authority).

Respectfully submitted,

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February 22, 1999.

<sup>12</sup> Pennsylvania Numbering Order, at 16-17 (¶ 23).

# ATTACHMENT A

July 31,1996

Bires Number of

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AirTouch Communications, Complainant.	) ) Case 94-09-058
vs. Pacific Bell (U 1001 C), Defendant.	) ) )
MCI Telecommunications Corporation (U 5001 C).  Complainant.	-) ) ) Case 95-01-001
vs. Pacific Bell (U 1001 C), Defendant.	) ) ) )
Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service.	) R.95-04-043 ) (Filed April 26, 1995) )
Order Instituting Investigation on the Commission's Own Motion into the Competition for Local Exchange Service.	) I.95-04-044 (Filed April 26, 1995) )

## PACIFIC BELL'S (U 1001 C) SUPPLEMENTAL FILING ON BEHALF OF THE CALIFORNIA CODE ADMINISTRATOR PURSUANT TO DECISION 96-06-062

Pacific Bell hereby attaches the supplemental report of the California Code

Administrator on the Code Conservation and Efficient Utilization Measures/Contingency Measures

for the 310 NPA pursuant to Decision 96-06-062.

Dated at San Francisco. California this 31st day of July 1996.

Respectfully submitted.

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Position Paper from

Pacific Bell

## PACIFIC BELL POSITION PAPER ON EXTRAORDINARY CONSERVATION MEASURE ISSUES

Pacific Bell submits this position paper on four issues discussed at the July 19, 1996 meeting on Extraordinary Conservation Measures for the 310, 415 and 619 NPAs. These issues, all of which concern the design of the proposed lottery of scarce NXX codes in these three NPAs, were discussed extensively but the industry representatives present were not able to reach consensus.

In brief, our position is as follows: Any lottery of scarce NXX codes in NPAs which have reached a jeopardy condition should be completely random and should not favor any carrier or group of earriers over another. Only in this way can discrimination be chiminated. However, a Carrier of Last Resort which has no remaining numbers to assign in a particular wire center should be granted an NXX code to prevent denial of service.

We do not support the various proposals to "adjust" the lottery to favor one group over another. Some of these proposals are modeled on the Massachusetts Allocation Guidelines, i.e., the Extraordinary Central Office Code Conservation Interim Procedures that went into effect on March 15, 1996 for the 617 NPA. We believe that legal prohibitions against discrimination (those found in California Public, Utilities Code, Sec. 453(a), in the Federal Communications Act, 47 U.S.C. Sec. 202(a), and in decisions interpreting those sections) prevent California public utilities and the California Public Utilities Commission ("CPUC") from designing or conducting a lottery that discriminates in any way against its participants. We will first discuss these legal prohibitions, and then discuss the four particular issues raised at the July 19 meeting.

#### 1. Legal Prohibitions Against Discrimination

Sec. 453(a) of the California Public Utilities Code provides as follows: "No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage." The Commission has often held that it is "mandated" by Sec. 453(a) "to see that [public utility] service is available without discrimination." CAL-AM Water Co. (1979) 1 Cal.P.U.C.2d 587, 591. When a shortage of natural gas was predicted in California, the Commission adopted rules for prioritizing classes of customers and explained that it had "a duty" to do so, "in order to prevent what we believe would otherwise be unlawful discrimination. It seems clear that the Commission could not countenance a rule promulgated by a utility which purported to treat customers similarly situated in a dissimilar manner, whether such treatment be with respect to rates, quality of service, or whatever. The prevention of such discriminatory treatment is one of the historical cornerstones of utility regulation." (Interim End-Use Natural Gas Curtailment Plan (1975) 79 Cal.P.U.C. 181, 191, emphasis added.)

Similarly, the Communications Act prohibits discrimination by telephone companies. Sec. 202(a) of the Act provides that a utility cannot "make any unjust or

unreasonable discrimination" in "practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any ... class of persons ... or to subject any ... class of persons ... to any undue prejudice or disadvantage." 47 U.S.C. Sec.202(a). In its recent Ameritech decision, the Federal Communications Commission interpreted this section as barring Ameritech's plan to use an "overlay" area code for wireless and paging companies. In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois (PCC 95-19). 10 FCC Red 4596, 4605-09 (1995). The PCC stated that "Ameritech must treat all applicants for such codes in an impartial manner, providing telephone number resources in accordance with the Act. NPA codes and the central office codes assigned within the NPA should be viewed as essential resources to be shared as fairly and equitably as possible by all those carriers who require such codes to offer intersure service to their customers." (10 FCC Red at 4608.)

Thus, both the CPUC and the FCC have stressed the importance of avoiding discrimination in awarding scarce resources. Codes are to be distributed "in an impartial manner" and shared "as fairly and equitably as possible." We believe that these principles require any lottery of codes to be completely random. Any method of skewing the lottery to favor one group would reduce its random nature and would not be "fair" or "equitable." Furthermore, to prevent any allegations of discrimination or impropriety in conducting the lottery, it should not be conducted by Pacific Bell or any other utility; instead, it should be conducted by the Commission Advisory and Compliance Division.

#### 2. Categories Of Carriers

The first issue discussed at the July 19 meeting was the division of carriers into "categories." Under the Massachusetts Allocation Guidelines, carriers are grouped into "initial" and "growth" categories. Each mouth, some NXX codes are awarded by lottery to each category (if the number of codes requested by one category were fewer than the number available, codes could then be awarded to the other category).

In a spirit of compromise, in order to reach contensus, we would in favor of categories, with the understanding that each category would obtain 50% of the codes to be swarded each month (in contrast, in Massachusetts, the initial category received 60% and the growth category received 40%). However, we believe that categories are less desirable than an entirely random lottery. All carriers should submit timely requests for codes (consistent with the rules established in industry meetings, as to which consensus was reached; for example, all requests must be consistent with forecasts). If the requests exceed the number of codes available for distribution that mouth, a random lottery should be held, and codes should be awarded based on the results of the lottery. Categories interfere with the random nature of the lottery, and should not be used.

If the Commission decides that categories are not discriminatory and should be used, we would support the two categories, "initial" and "growth," with each category receiving 50% of the codes each month.

#### 3. Priority Lists

The Massachusetts Allocation Guidelines establish a "priority list" consisting of those carriers who requested, but did not obtain, one or more codes in the prior month(s). These carriers will be given a priority in the monthly lottery; only after these code applicants have received codes will codes be awarded to anyone else.

For the reasons discussed above, we oppose any priority lists. In a time of severe code shortages, the priority list is likely to be quite long (e.g., if only 4 codes can be awarded in a given month, and there are 20 applicants in the first month, it will be 5 months before anyone other than the 20 applicants can obtain codes). This approach discriminates against new entrants, who may not be in a position to apply for codes at the time of the first month's lottery (e.g., they do not yet have a Certificate of Public Convenience and Necessity). It also encourages premature or exaggirated requests for codes.

#### 4. Weighting Of Code Applicants

In Decision No. 96-06-062, the CACD proposed that a lottery be skewed in favor of those carriers who had few NXXs. We regard this proposal as more discriminatory than any of the previous proposals. More than any of the other proposals, it could potentially deprive Californians of telephone service (unless the "carrier of last resort override" is adopted; see discussion below). Those carriers who have many NXX codes — the existing local exchange carriers — also have many existing customers who are using the numbers contained in the codes. They are not simply warehousing vacant codes. To put them at a disadvantage because they are already successfully serving the public would be to discriminate against them unreasonably and without justification. Instead, all carriers — those with many customers as well as those with few — should be treated equally. All should have an equal opportunity to obtain new codes, if they have satisfied the requirements which the industry has agreed upon.

It should be noted that the Massachusetts Allocation Guidelines do not involve any such "weighting." We are unaware of any jurisdiction that has even considered, let alone adopted, such an unfair procedure of favoring new entrants and unsuccessful existing carriers.

#### 5. Overrida For Carriers Of Last Resort

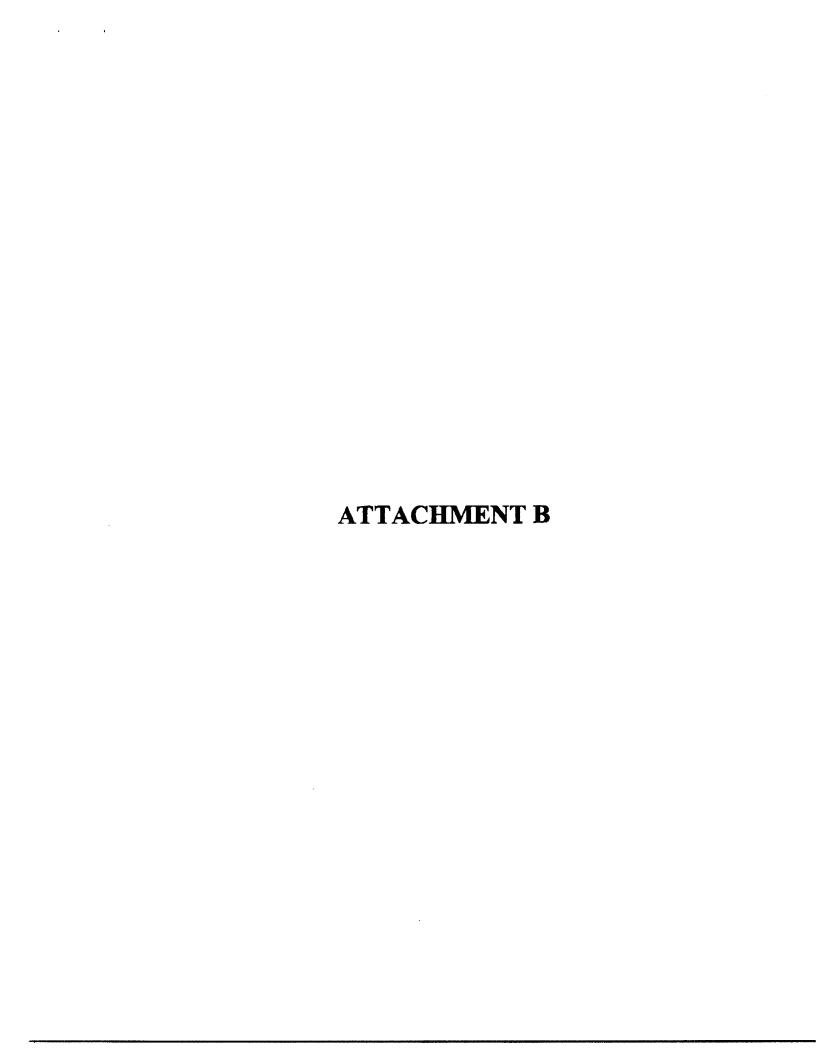
Finally, the industry was unable to agree at the July 19 meeting about whether to give a special protection in the lottery, under carefully-defined circumstances, to carriers of last resort. The proposal was as follows: If a carrier of last resort had absolutely no numbers in a particular wire center, and if no other carrier with a supply of numbers was willing to provide service in that wire center, then the carrier of last resort would have priority in the next month's lottery, so that customers would not be denied service. We believe that this limited set of circumstances will rarely be encountered; instead, there are many CLCs who seek to serve customers in the three NPAs now in a jeopardy condition. Thus this "override" would rarely, if ever, need to be invoked. However, we believe it should remain a possibility, so that the dire

consequences of denial of service will not occur. We note that the methods of dealing with possible denial of service discussed in D. 96-06-062 (such as remote call forwarding, use of pay phones, and use of cellular phones) each are less satisfactory, for different reasons, than provision of traditional wireline service. The override would protect consumers from denial of traditional wireline service.

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#### CONCLUSION

Where number searcity makes a lottery of codes necessary, the lottery should be conducted by CACD and should be entirely random. A random lettery is legally required, because any distortion of the lottery process, such as the use of categories, priority lists, or weighting by numbers of codes, would favor one or more carriers and would be discriminatory and unfair. Finally, if a Carrier of Last Resort cannot provide service to a particular wire center because it lacks numbers, and no competitor is willing to provide service to that particular wire center, a lettery override should be used to provide an NXX code to the Carrier of Last Resort.



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## Decision DRAFT DECISION OF ALI PULSIFER (Mailed 2/2/99)

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service.

Rulemaking 95-04-043 (Filed April 26, 1995)

Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service.

Investigation 95-04-044 (Filed April 26, 1995)

## DRAFT

## TABLE OF CONTENTS

OPINION	
I. Introduction	
II. Industry Relief Planning Process	
III. Public Notification and Meetings	
IV. Proposed Plans	
V. Discussion	
VI. Availability of NXX Codes to Meet FCC Requirement	
VII. Customer Education Program Regarding Mandatory 1+10-Digit	-
the Overlay	20
VIII. Conclusion	26
DX. Comments on Draft Decision	26
Findings of Fact	26
Conclusions of Law	30
ORDER	33

DRAFT

#### OPINION

#### I. Introduction

By this decision, we formally approve the proposed overlay relief plan for the 714 Numbering Plan Area (NPA) based upon review of the alternatives as presented to the Commission by the North American Numbering Plan Administrator (NANPA) by transmittal letter dated November 30, 1998. The 714 NPA currently serves a portion of Local Access and Transport Area (LATA) 730 principally located in Orange County.

The 714 area code was introduced in California in 1951. The 619 and 909 area codes were split from 714 in 1982 and 1992, respectively. The 949 area code was split from the 714 area code in April 1998. The remaining 714 area code still requires additional relief to meet the industry's projected exhaust date of first quarter of 2000. Accelerated growth in the 714 area code will require continued use of extraordinary conservation measures by the industry to ensure available NXX codes to last until first quarter of 2001 (i.e., the end of mandatory dialing). After the 714/949 split, the 714 area code will serve LATA 730 with 13 Rate Areas.

The process for implementing new area codes in California is covered both by state statute, applicable Commission decisions, and industry guidelines.

California state statute prescribes requirements for customer notification, establishment of new NPA boundaries and transitional dialing periods.

"Affected subscribers" must have written notice at least 24 months prior to the introduction of a new area code.

We have formulated statewide policies regarding area code relief through a series of decisions since 1995. Area code relief plans have become increasingly controversial in recent years as the demand for numbering resources has risen dramatically due to new technological advances in telecommunications and to

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the advent of local competition. We acknowledged the need for a comprehensive statewide policy on area code relief in connection with the proposed 310 NPA relief plan filed in 1995. We considered at that time the adoption of an overlay for the 310 NPA as an alternative to the traditional use of geographic splits. In D.95-08-052, we rejected the overlay option for the 310 NPA on the basis that, among other things, it was not at that time a competitively neutral relief remedy. We left open the prospect of considering an overlay as an option in future NPA relief plans once the anticompetitive aspects of the overlay could be overcome. We further directed that the Local Competition Docket be used to develop a comprehensive statewide policy regarding NPA relief.

On August 2, 1996, we issued D.96-08-028, adopting certain initial measures as part of a statewide policy on area code relief. We concluded in D.96-08-028 that as a condition for consideration of the overlay as a relief option, the overlay must be competitively neutral. We also established two prerequisites at a minimum for competitive neutrality. These were: (1) mandatory 1+10-digit dialing for all calls within the service areas subject to the overlay; and (2) the full implementation of permanent local number portability (LNP) within the service area subject to the overlay. We determined that a further record needed to be developed regarding the relative merits of overlays versus splits once anticompetitive impediments could be overcome.

On December 20, 1996, the Commission released D.96-12-086, further expanding on the policy regarding the use of overlays once the competitive

In D.96-12-086, we ruled not to adopt statewide mandatory 1+10-digit dialing concurrently with the first overlay. We concluded that the advantages of preserving seven-digit dialing, for as many customers and for as long as possible, outweigh any potential customer confusion resulting from instituting mandatory 1+10-digit dialing only in those regions subject to overlays.

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impediments could be resolved. In D.96-12-086, we evaluated the relative merits of splits versus overlays in terms of how consumers would be impacted differently with an overlay versus a geographic split. In particular, we reviewed consumer surveys conducted by various parties concerning preferences for overlays and geographic splits as a means of creating new area codes. In that decision, we concluded that, at least for the near term, customers were better served with the geographic split option. We directed that splits should continue to be used for relief plans which would take effect at least through the year 2000. However, particularly in light of the consumer preference survey which reflected a greater receptiveness among certain classes of customers to the overlay proposal in the 310 NPA compared to other NPAs, we left open the possibility of adopting an overlay for the next round of relief in the 310 NPA to take effect prior to 2000. In the case of the proposed 714 NPA relief plan now before us, the proposed implementation date would occur after the year 2000. Therefore, the previous policy limiting relief options to geographic splits does not apply. The Commission has opened R.98-12-014 to develop a NPA relief planning policy on a prospective basis beyond the year 2000. For purposes of the present 714 NPA proposal, we shall evaluate it based on its own merits. In D.97-08-065, we required that an overlay be evaluated in reference to the same criteria applicable to a geographic split.

In D.96-12-086, we further developed the necessary conditions which would have to be met in order to justify approval of an overlay. We required that a customer education program be instituted at least 12 months before an overlay would take effect explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public. We also required that upon approval of any overlay, the code administrator and telecommunications industry members were to:

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- a. Notify the nationwide industry, the national code administrator, and customers of the proposed dialing plan change.
- b. Educate customers, industry, and internal employees on the dialing plan change.
- c. Correct signage for dialing instructions on payphones and in directories.
- d. Perform switch translation work for implementing mandatory 1+10-digit dialing (12 weeks prior to cutover).
- e. Simultaneously with the cutover, institute customer instructional announcement for misdialed seven-digit calls.

In addition to the requirements imposed by the Commission, the Federal Communications Commission (FCC) issued its own requirements in FCC Order 96-333 with respect to overlays. In particular, the FCC required that every carrier was to be assured of at least one NXX code in the existing area code during the 90-day period preceding the introduction of the overlay. The FCC also prohibited overlays from being applied only to specific telecommunications services such as cellular, but required that overlays must apply to all services. Based upon these policies, we now consider the proposed options submitted by the NANPA for relief in the 714 NPA.

#### II. Industry Relief Planning Process

The planning process for NPA Relief is established in the industryapproved document INC 97-0404-016 "NPA Code Relief Planning and
Notification Guidelines," to be used by NPA Relief Coordinators. The document
lists the assumptions, constraints, and planning principles used in NPA Code
relief planning efforts. It also lists the steps of the NPA Code relief planning
process and describes the alternative methods of providing NPA Code relief and
their characteristics. Industry meetings were conducted to develop alternatives

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for exhaustion relief in the 714 NPA, based on prescribed criteria which had been used by the industry for previous relief plans.<sup>2</sup> The criteria are:

- 1. Minimize end users' confusion.
- 2. Balance the cost of implementation for all affected parties.
- 3. Provide that customers who undergo number changes shall not be required to change again for a period of eight to ten years.
- 4. Not favor a particular interest group.
- 5. Cover a period of at least five years beyond the predicted date of exhaustion.
- 6. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
- 7. Comply with state and federal statutes, rulings and orders.

By letter to the assigned Administrative Law Judge dated November 30, 1998, Lockheed Martin IMS, in its role as the North American Numbering Plan Administrator (NANPA), on behalf of the telecommunications industry in California presented the two NPA relief plans for the 714 area code.

These NPA relief plans were developed by representatives of the California telecommunications industry in meetings facilitated by NANPA using a consensus decision making process and following industry approved NPA relief planning guidelines. Important input to the relief plans was provided at public meetings required by Public Utilities (PU) Code Section 7930(b), which

<sup>&</sup>lt;sup>2</sup> The criteria are based on the INC 97-0404-016 "NPA Code Relief Planning and Notification Guidelines."

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were conducted in September 1998, and a local jurisdiction meeting, which was held with city and county government representatives on July 7, 1998.

The Area Code Relief Coordinator convened seven meetings attended by members of a telecommunications industry planning team to discuss and develop relief alternatives for the 714 NPA. This team is composed of the Lockheed Martin - NANPA, California Public Utilities Commission (CPUC) staff and current code holders: local exchange carriers, interexchange carriers, wireless carriers and competitive local carriers.

During the October 13, 1998 industry meeting, the industry agreed to forward Alternatives 1 and 8B to the Commission for a final decision. The industry recognized it could not reach consensus' on one plan but was able to reach consensus on two exhaust relief plans: an all services overlay and a geographic split.

#### III. Public Notification and Meetings

Public Notification of the impending exhaust of 714 area code was initiated by telephone corporations in May 1998. This established the two-year advance notification requirement PU Code § 7930. Industry meetings began October 7, 1997 to develop alternatives for exhaust relief.

A Local Jurisdiction meeting for city and country government representatives was held on July 7, 1998. The purpose of this meeting was to

The INC 97-0404-016 "NPA Code Relief Planning and Notification Guidelines" defines the term "consensus" for use in the planning process as follows:

<sup>&</sup>quot;Consensus is established when substantial agreement has been reached among interest groups participating in the consideration of the subject at hand. Interest groups are those materially affected by the outcome or result. Substantial agreement means more than a simple majority, but not necessarily unanimity."

provide jurisdictions with a status report on the 714-relief process and to gather additional information. Representatives were asked to express their support for the alternatives by filling out a "show-of-interest" form. While Local Jurisdictions were invited to the Local Jurisdiction meeting and all Public Meetings, some did not send a representative to indicate their preference for a relief alternative.

The industry presented one overlay plan (Alternative 1), four two-way geographic split plans (Alternatives 3A/B, 8A/B, 14A/B, 15A/B) and one three-way split plan (Alternatives 11A/B/C) at the Local Jurisdiction meeting.

Preferences were reflective of the jurisdictions wishing to keep their cities "whole" and not split. There were 44 non-industry attendees with only 24 show-of-interest forms being submitted. There was no significant preference for any one of the alternatives presented. Several local jurisdictions requested maps that showed the city boundaries in relation to the split lines and would not make a selection until these maps were provided. A second letter with maps of the 714 NPA that reflected more detail of city boundaries was sent July 28, 1998. The jurisdictions were requested to respond with a show-of-interest form by August 21, 1998.

Twenty-eight show-of-interest forms were returned: There were 12 showing preference for Alternative 8B, four for Alternative 8A, three for Alternative 14B, two for Alternative 1, two for Alternative 11C, one each for

While the show-of-interest is not intended to be a popular voting mechanism, it does provide the industry with a means of getting input on relief alternatives. The Show-of-Interest also provides the industry a method of gathering comments and issues from those in amendance.

DRAFT

Alternatives 3A, 3B, 11A, no forms were submitted for Alternative 11B, and one preferred none of the alternatives.

Public meetings were required to occur within six months of the May 1998 customer notification, i.e., by November 1998. The industry team held three public meetings, as required by PU Code § 7930. The industry met on August 31, 1998 and agreed to present the following alternatives to the general public: one overlay plan (Alternative 1), and two options for two-way split plans (Alternatives 8A/8B and 14A/14B). The industry, NANPA and the CPUC jointly conducted three public meetings in Huntington Beach, Santa Ana and Anaheim on September 15 and 16, 1998. The combined show-of-interest selections from both the Local Jurisdiction and Public Meetings resulted in 18 selecting Alternative 1, and eight for Alternative 8A, 43 for Alternative 8B, three for Alternative 14A, and six for Alternative 14B. There was a dominant showing of interest towards Alternative 8B, and a secondary interest towards Alternative 1. Of the 13 letters received from the public prior to the public meetings, 12 supported Alternative 8B. Additionally, ten letters were received following the public meetings: two supported Alternative 8B, two supported Alternative 1, one Alternative SA, and two supported a boundary realignment of the Santa Ana rate area to the 949 area code.

The industry could not reach consensus on one single plan, but reached consensus on forwarding two relief plans, Alternative 1 and Alternative 8B, to the Commission for a decision. The industry directed the NANPA on October 13, 1998, to forward these findings to the Commission for a final decision.

## IV. Proposed Plans

Alternative 1 introduces a new overlay area code in the same geographic area as the existing 714 area code, and allows all existing customers to retain their

DRAFT

714 area code and telephone number. The overlay requires that all customers (in the 714 area code and the new overlay area code) dial 1 plus the area code plus the seven-digit number for all calls beginning January 6, 2001. The proposal calls for the overlay area code to take effect also on January 6, 2001. The industry asks the Commission to decide the date for the start of permissive dialing.

Alternative 8B, a geographic split, splits off the northern rate areas of the 714 area to a new area code and allows the customers in the southern rate areas, including the county seat, to retain the 714 area code. This plan allows all customers, in the resulting 714 area and the new area code, to retain seven-digit dialing within their respective area codes. This plan requires the 714 area code customers in the northern portion of Orange County to change to the new area code.

The Industry proposes the following implementation schedule for Alternative 8B:

Start of Permissive Dialing

May 13, 2000

Start of Mandatory Dialing

November 11, 2000

End of Mandatory Dialing

February 10, 2001

As a result of the shortage of available NXX codes in the 714 NPA, parties expressed a consensus that the NANPA request that the Commission consider an accelerated implementation schedule for either of the adopted relief plans. If the plan adopted by the Commission is an overlay, parties representing CLCs, in particular, acquiesce in an accelerated plan only with "great apprehension,"

<sup>&</sup>lt;sup>5</sup> Under this relief plan, the cities of Costa Mesa, Huntington Beach, Westminster, Midway City, Fountain Valley, Seal Beach, Los Alamitos, Tustin, portions of Cypress, Anaheim, Orange, Stanton, and most of the cities of Santa Ana and Garden Grove would retain the 714 area code.

DRAFT

noting that any truncation of the customer education period to accommodate an accelerated relief schedule may effect the ability of the current 714 NPA customer to know that when one dials the new area code, one is dialing a geographic neighbor, and not, for example, New Jersey. The Industry proposes that the exact date of any accelerated schedule be determined by the Commission after consultation with the Industry in conjunction with the master relief schedule. Based on when a plan is approved, the Industry believes accelerated implementation could occur as early as third quarter 1999 or as late as first quarter 2000. The Industry believes the Commission should allow for an accelerated overlay schedule only to the extent that an effective and comprehensive education program is implemented in a timely manner. Two position papers were filed, one in support of the overlay (Alternative 1) and the other in support of the geographic split (Alternative 8B).

The position paper favoring the overlay was jointly sponsored by AirTouch, GTE California Incorporated, MobileMedia/MobileComm, Pacific Bell, PageNet and The Telephone Connection. Proponents of the overlay argue that overlays are superior to geographic splits in providing relief of an area code because they can be implemented faster and can be easily relieved when they exhaust. An overlay does not require the 9-12 month permissive and mandatory periods to allow customers to learn changed area codes for telephone numbers. An overlay involves less work for carriers than does a split as existing NXXs do not need to be reprogrammed, making it easier to schedule relief earlier than with geographic splits when multiple relief projects are being implemented simultaneously.

Overlay proponents further note that an overlay will leave the existing 714 geographic area intact and avoids further shrinking of the area code. Thus,

DRAFT

conflicts between communities over retaining the old area code area avoided. With an overlay, current customers will not have to change their numbers.

A second position paper supporting Alternative 8B (geographic split) was jointly sponsored by the California Cable Television Association, Nextlink and ICG Telecom. Proponents of Alternative 8B believe that it is superior to the overlay, and would best meet industry goals and Commission requirements to minimize impact on customers and telecommunication providers and provide a reasonable code life. The Proponents argue that an overlay can create confusion which might have critical impacts in emergency situations, particularly for elderly and non-English speaking customers. Proponents stress the importance of maintaining the unique geographic identity of the 714 area code.

Additionally, Alternative 8B provides the industry more time to resolve local number portability (LNP) problems currently experienced by some new entrants. For example, some customers that are ported to Nextlink are experiencing call completion problems during the 213/323 split implementation which Nextlink believes are LNP related. Cox reports similar call completion problems for calls from wireless carriers in the 714 area code to Cox customers ported from Pacific Bell in the 949 area. Cox also believes that the problems stem from a combination of factors involving LNP and area code relief implementation. Parties argue that the problems cited by NextLink and Cox would have been dramatically greater with an overlay, where the calls affected would be the majority of calls made within a specific geographic area rather than those made to another geographic area.

#### V. Discussion

We conclude that the proposed 714 NPA overlay would best satisfy the criteria for evaluation of relief plans as identified by the Industry Team. For the reasons discussed below, we also conclude that the overlay would, in fact,

DRAFT

provide the best overall remedy for 714 NPA relief when compared against the geographic split offered as an alternative.

The potential merits of an overlay were considered in the consumer surveys reviewed in D.96-12-086 in which respondents expressed preferences for splits or overlays. Although respondents in the survey expressed a greater preference for splits compared with overlays at the time the survey was taken, the 714 NPA had not yet entered into the current phase of code exhaustion, for which yet another round of NPA relief is required. The results of the previous consumer-preference poll must be weighed in light of the increasing hardship of cumulative changes in area code, and the difficulty in fairly devising successive splits of the same NPA over time.

While both the overlay and a geographic split will have certain adverse impacts on customers in the 714 NPA to the extent they each disrupt the status quo, we believe the overlay will have less adverse overall impacts in this instance. Particularly in densely populated regions such as the 714 NPA, which have been subject to progressive shrinkage through a succession of recent NPA splits, it becomes increasingly difficult to perpetuate a further splitting of the NPA. Customers in the 714 NPA have already gone through two NPA splits within the past six years (the 714/909 split in 1992 and the 714/949 split in 1998), and have been affected by at least three more splits in adjacent NPAs since 1991. As the 714 NPA faces the prospect of even further shrinkage in the current proposal before us, it becomes increasingly difficult to draw boundaries that minimize splitting local communities, and be consistent with PU Code § 2887(a). The drawing of boundaries becomes ever more contentious with each subsequent split.

The continual splitting of the 714 NPA also makes it increasingly difficult to balance the projected lives of the old and new NPAs. The shorter the NPA life

DRAFT

resulting from a geographic split, the more frequently customers must be subjected to the disruptions and hardships that come with changing area codes yet again. The relative consumer support for a split in comparison to an overlay can only be expected to decrease as the cumulative burdens of shrinking NPAs continue.

The overlay avoids the problems involved with the continual geographic splitting of local communities by leaving existing boundaries intact. The overlay also avoids the need for existing customers to change their area code. At the public meetings for the 714 NPA, some attendees particularly business customers, about the economic hardships resulting from having to notify customers of area code changes, and to changing business cards and letterheads.

While the overlay avoids these problems, the overlay is not without its own issues. For example, while the NPA boundary would not change, the defining feature of the boundaries would itself change. In other words, the geographic boundaries would no longer define a single NPA, but two (or more) NPAs. Thus, one of the advantages of having geographically-defined NPA boundaries (i.e., as a means of common identification) will over time become less meaningful as multiple NPAs within a single geographic region proliferate. The area code in an overlay signifies when the customer was assigned the number rather than where, geographically, the number is located. Thus, for example, a business may consider an assignment of the overlay NPA less desirable than the original NPA which is assigned to a neighboring business, particularly when the NPA is first introduced. Customers may perceive the business with the new NPA to be newer or less established than the neighboring business that retains the more recognized original NPA. Therefore, the advantage of the overlay in avoiding new geographic splits must be weighed against the drawback that it

DRAFT

also tends to obscure the traditional use of NPAs as a common geographic bond of local communities of interest.

Another drawback of an overlay which customers will experience is the loss of seven-digit dialing for calls within the same NPA. In the consumer preference surveys reviewed in D.96-12-086, customers generally placed significant value on the ability to dial only seven digits for calls within the NPA. Yet, we must weigh the value of seven-digit dialing against the other problems involved in yet another split of the 714 NPA. Because of the shrinking size of the 714 NPA, an increasing number of customers' calls originated within the 714 NPA terminate outside of the 714 NPA boundaries.

As further splitting occurs, the number of different NPAs within a prescribed region increases, and the percentage of calls which require dialing a separate area code increases. As the proliferation of new area codes continues to fragment previously homogenous NPA regions, therefore, the relative advantages of seven-digit dialing applies to a continually shrinking pool of numbers. Likewise, as this trend progresses, the relative advantages of geographic splits compared with overlays become less apparent.

We acknowledge that a traditional advantage of a geographic split is that it allows communities of interest to share a single area code as a means of unique geographic identity. With the continual splitting of geographic regions, however, it becomes increasingly difficult to retain whole communities of interest within a single area code. The proposed splitting of the remaining 714 NPA as contemplated under Alternative 8B would entail dividing a number of cities between two area codes. To the extent this happens, the traditional advantage of a geographic split in retaining communities of interest intact in a single NPA would be largely lost.

DRAFT

In this instance, we find that through the successive shrinkage of the 714 NPA through the 1990s, the scales have tipped in favor of an overlay for the pending round of relief. We appreciate that, with the introduction of an overlay, the 714 NPA will no longer provide a unique geographic area code identity. Customers must learn to distinguish between two separate area codes when dialing numbers within the current 714 NPA region. Customers will also have to dial the area code prefix for all calls within the overlay region, even if it is the same as their own area code.

We believe the public should be properly educated concerning the impacts of the changes resulting from the overlay. We are concerned particularly about those public sectors with special needs such as children, the elderly and disabled, and non-English-speaking customers. To address this concern, we have previously mandated that a comprehensive public education program be conducted as a prerequisite to implementation of an overlay. We have already mandated such PEPs as precursors to the overlays approved for the 310 and 408 NPAs. We shall likewise approve such a program for public education and acceptance of the overlay in this instance.

We believe that the 714 NPA overlay can be implemented in a competitively neutral manner. As previously stated, one of the prerequisites of competitive neutrality is full implementation of permanent LNP. Under the schedule adopted by the FCC, full implementation of permanent LNP was to be concluded by December 31, 1998, in the 100 largest metropolitan service areas (MSAs) nationwide. Proponents of the geographic split argue, however, that more time is needed to resolve LNP problems currently being experienced by some new entrants before an overlay for the 714 NPA is approved. We recognize that some CLCs are still experiencing certain call completion problems which may be LNP-related. Since the overlay area code would not go into effect until

DRAFT

January 6, 2001, however, the industry will still have approximately two more years within which any debugging of LNP startup problems can be resolved. As a cautionary measure, we shall require Pacific and GTEC to file a report with the Commission, and to serve it on parties of record by July 7, 1999, regarding the status of full LNP implementation in the 714 NPA as of June 30, 1999, including identifying and rectifying an LNP-related call completion problems. In view of these measures, we conclude that the proposed 714 NPA overlay satisfies the criterion that permanent LNP be available at the time the overlay is to take effect.

Another potential problem with the overlay is that customers who seek to add additional lines at the same location after the overlay takes effect may only be able obtain the additional lines under the new area code and thus be left with two area codes for multiple lines the same location. The only alternative, if they wish for all their lines to be in one NPA, would be to change the original numbers' area code, thereby losing one of the presumed advantages of the overlay. If the customer's local service provider has a remaining inventory of NXX codes within the 714 NPA, the provider presumably could offer the customer an additional line within the same NPA. We are concerned, however, with the potential for certain carriers, particularly the ILECs, to gain a competitive advantage from being able to assign new numbers using the 714 NPA while new entrants with limited NXX codes in the 714 NPA may have to rely on the new NPA for making number assignments. We shall not resolve this issue in this decision, but will solicit further comments concerning what measures may be appropriate with respect to the assignment of numbers from NXX codes in the 714 NPA after the overlay NPA is initiated in order to promote competitive neutrality among carriers.

In the interim, however, we recognize that immediate measures need to be initiated to address the potential competitive advantage of the ILECs in having a

DRAFT

warehouse of numbers in the 714 NPA which will be more desirable than numbers in the new overlay NPA. We place a high priority on promoting the development of measures to ensure the efficient utilization of NXX codes so that CLCs are not competitively disadvantaged by limited access to numbering resources. As we previously noted in D.98-05-021, number pooling is one essential tool to address the alleged problem of ILEC warehousing of NXX codes. Independent of the warehousing issue, parties previously addressed the prospects for developing number pooling, as well as other code conservation measures, in comments filed in this docket on February 25, 1998 with replies on March 13, 1998, in response to an ALJ ruling dated January 13, 1998.

Number pooling can promote more competitively neutral access to numbering resources for all participating carriers by enabling multiple carriers to share a single NXX code through the technology associated with permanent LNP. There are numerous and substantial technical, administrative, and cost issues related to number pooling, however, that must be addressed. In particular, more intensive tracking of number allocation will be required. An audit of code utilization within the industry will be required to determine the maximum number of NXXs or blocks of 1,000 numbers that can be recovered from pooling participants for sharing. Some degree of NXX code utilization does not automatically disqualify an NXX from being shared. The Industry Numbering Committee (INC) has recommended that the degree of "contamination" (i.e., prior usage) that should be allowed for a block of 1,000 numbers to be considered for the pool is 0% to 10%. Yet, some providers have urged a much higher level of contamination he allowed in order to achieve a greater degree of number efficiency.

As a step toward the establishment of number pooling, we shall direct Pacific and GTEC to identify the percentage utilization for all blocks of 1,000

DRAFT

numbers within the NXX codes assigned to them in the 714 NPA, and to report this information to the Director of the Commission's Telecommunications Division within 30 days of the issuance of this order. This initial reporting will be limited to the ILECs since they possess the majority of NXX codes in the 714 NPA. Further, as an interim measure until further procedures have been developed in California for 1000-block pooling, we shall require that number assignments made by the ILECs to their customers in the 714 NPA shall be made first from NXXs that have more than 25% utilization. The ILECs may assign numbers from NXXs with less than 25% utilization only to the extent necessary where numbers from NXXs with more than 25% utilization are not otherwise available. This measure will preserve 1,000-number blocks with 25% utilization or less for number pooling once it is implemented. We consider the 25% utilization as a precautionary safeguard on an interim basis to protect existing 1,000-number blocks from undue "contamination" pending the implementation of number pooling. We may further revise the utilization criterion at a future date. We shall place a high priority on the expedited implementation of number pooling in the 714 NPA.

### VI. Availability of NXX Codes to Meet FCC Requirement

In view of the contingency measures we adopt herein, we conclude that sufficient NXX codes will be available to permit the NANPA to assign at least one code in the 714 NPA to each certified carrier within the service area that does not presently have one, as required by the FCC. As of the date comments were filed, there were 266 codes available for assignment in the 714 NPA, subject to lottery rationing.

As we noted in D.98-05-021, it takes 66 days for the CNCA to complete the code opening process. A schedule thus is needed for carriers to notify the CNCA of their code orders sufficiently in advance to allow the codes to be opened on a

DRAFT

timely basis. We shall therefore direct that any presently certificated facilitiesbased CLC which has not previously been assigned a 714 NPA NXX code shall file a "Statement of Intent" with the CNCA if it seeks to be assigned such a code. These statements shall be filed by September 30, 1999. Likewise any new facilities-based CLC's becoming certificated between September 30, 1999 and the activation of the overlay NPA in January 2001 shall be required to notify the NANPA within 30 days of certification if they intend to request a 714 NPA NXX code prior to February 2001. We shall direct the NANPA to reserve the requisite codes to satisfy the FCC code assignment requirement as of the effective date of this order. Any CLC that is awarded a code in the 714 NPA through the lottery shall be removed from the list of carriers eligible for a 714 NXX code assignment under the FCC requirement. We shall also direct the NANPA to impose a freeze on lottery code assignments during the 90 days preceding the overlay opening. The Commission on its own motion or at the request of the NANPA may reevaluate this freeze as the implementation date of the overlay approaches and the availability of NXX codes thus becomes more predictable. The remaining assigned codes shall be reserved during the final 90 days for assignment to new entrants in the 714 NPA region which have not previously received an NXX code in the 714 NPA. Therefore, with these measures in place, we conclude that there will be sufficient codes to permit each carrier to receive at least one code in the 714 NPA during the 90 days prior to the overlay taking effect.

## VII. Customer Education Program Regarding Mandatory 1+10-Digit Dialing and the Overlay

In D.96-12-086, we recognized that the introduction of an overlay together with mandatory 1+10-digit dialing will be a novel innovation and require a transitional period for customers to become accustomed to the change.

Customers within the boundaries of the overlay will have to adjust to dialing

DRAFT

1+10-digits when calling numbers even within their own NPA. In order to address the need for customer familiarity with the new dialing pattern for the overlay NPA, we ruled in D.96-12-086 that a customer education program begin no later than 12 months prior to the implementation date for the overlay.

We recently approved a public education plan (PEP) for the 310/424 NPA overlay in D.98-12-081. We shall direct that the industry implement a similar PEP for the 714 NPA overlay, drawing upon the experience acquired from the 310/424 PEP. The formulation of the PEP for the 714 NPA overlay should also be done on a consolidated basis with any other overlays planned for southern California scheduled to be implemented in a similar timeframe.

We identified in D.96-12-086 certain minimum elements to be included in any PEP in conjunction with an overlay. For example, the plan must explain why mandatory 1+10-digit dialing is a necessary feature of an overlay relief plan. Customers must be informed that the change in their dialing patterns resulting from an overlay will not affect the distinction between local and toll calls, nor the rates charged for the different types of calls. For the 310 NPA overlay, we required that the education plan should focus particular attention on the education of children as well as to elderly and disabled, in addition to non-English speaking groups. The PEP for the 714 NPA overlay should incorporate similar appropriate measures to communicate the change to each of these groups.

The public education program should also give priority to notifying those entities which will need to reprogram equipment to change to mandatory 1+10-digit dialing. For example, electronic security alarm companies and those with PBXs need to be contacted as soon as possible to allow them maximum lead time to reprogram equipment to accommodate mandatory 1+10-digit dialing.

The education program must also permit callers to easily locate the correct area code for a given number and to know that the 1+ the area code must be

DRAFT

dialed preceding any number within the region subject to the overlay. Under the current dialing plan, customers dial 411 for directory assistance to locate numbers within the same NPA, and 555-1212 preceded by the area code, if the number is within a different NPA. The PEP must inform customers how to dial directory assistance to locate numbers applicable to different area codes within the same overlay region. In addition to billing inserts and public service announcements, changes will also be necessary in published telephone directories covering the 310 NPA overlay region to identify the area code in addition to the seven-digit number for each directory listing.

The education program must be conducted not merely within the service territory covered by the 714 NPA, but must also focus on customers in adjacent NPAs which have frequent interaction with customers in the 714 NPA. Particularly because the 1+10-digit dialing requirement will only apply in the region subject to the overlay, customers will need to be informed that the revised rules will not apply outside of the geographic boundaries of the 714 NPA.

Although customers outside of the 714 NPA will not be required to dial 1+10-digits for calls within their own NPAs, they will still be impacted by the 714 NPA overlay dialing requirements to the extent they temporarily visit the 714 NPA region and make calls within that region. To a lesser extent, some level of public education regarding the overlay needs to be conducted on a statewide basis, recognizing that California is a highly mobile state, and residents from northern California may travel into the 714 NPA calling area. Likewise, a statewide public education program will facilitate public acceptance of any future overlays which may be approved for other NPAs within California.

As we concluded in D.98-05-021, the Section 7931 requirement for a permissive and mandatory dialing period was only intended to apply where existing area codes are changed as part of a geographic split relief plan under the

DRAFT

terms of Section 7931. The permissive and mandatory dialing periods provide an opportunity for customers to become accustomed to the change in dialing requirements as a result of an area code change. Since existing numbers do not change in an overlay, the requirement for permissive and mandatory dialing in the context of an area code change for existing numbers, as would be the case in a split, does not apply. Customers still need a transitional adjustment period, however, to become acquainted with mandatory 1+10-digit dialing and the notion of two area codes within a single geographic area.

Although the overlay does not involve a "permissive" dialing period as narrowly defined in Section 7931 (i.e., where the caller can reach the same party by dialing either the old or new area code), a "permissive" dialing period is still relevant to the overlay in a broader sense. We shall use the term "permissive" dialing period in connection with an overlay to refer to the period during which customers can reach the same party by dialing either seven digits or 1+10-digits. Customers are permitted, but not required, to use 1+10-digit dialing during this period.

As part of the customer education program for the 714 NPA overlay, we shall require that a formal "permissive" dialing period be instituted beginning no later than January 6, 2000 to coincide with the customer education program. To the extent that any carriers providing local service within the 714 NPA do not presently offer their customers the capability to dial 1+10-digits within the same NPA, we shall require them to make permissive 1+10-digit dialing available to their customers by January 6, 2000. During the permissive dialing period, customers should be encouraged to voluntarily dial 1+10-digits for calls within their NPA as part of the education program for the overlay.

In D.96-12-086, we directed that upon activation of mandatory 1+10-digit dialing, customers who attempt to dial seven digits will hear an instructional

DRAFT

recording informing them of the 1+10-digit dialing requirement. The industry has proposed that mandatory 1+10-digit dialing be instituted at the same time that the overlay area code takes effect on January 6, 2001. In the interests of minimizing customer confusion, however, we believe that mandatory 1+10-digit dialing should take effect three months prior to initiation of the new overlay area code. In this way, customers will already have become somewhat accustomed to dialing 1+10-digits before they have to make the further adjustment of distinguishing between two different area codes within the same geographic calling area. We shall therefore require that mandatory 1+10-digit dialing take effect in the 714 NPA on October 7, 2000. We shall require that all telecommunications carriers institute an instructional announcement directing callers to dial 1+10-digits effective by this date to be continued indefinitely after the date overlay area code is implemented in the 714 NPA. With this measure in place, customer confusion should be minimized, even for visitors from other areas that are subject to different dialing patterns. With repeated usage over time, public familiarity and acceptance of 1+10-digit dialing should increase.

We decline to adopt the industry proposal to accelerate the implementation date for opening the overlay area code. The industry has determined that a window of time between the fourth quarter of 1999 and the first quarter of 2000 would be available to accommodate the early opening of the overlay area code. While we appreciate that the accelerated opening of the area code could relieve code shortages in the 714 NPA sooner, it would also truncate the time available to prepare the public for mandatory 1+10-digit dialing and to educate them concerning the novel nature of the overlay concept. It is important that the public be given an adequate amount of time to prepare for the overlay implementation in order to minimize any disruptive effects which might otherwise occur. PU Code § 7930(c) requires that customers be given at least 15

DRAFT

months advance notice regarding the geographic area of a new area code, together with options to mitigate any disruptions to his or her telephone service prior to the opening of a new area code. The acceleration of the opening of the new area code to the end of the first quarter of 2000 would fail to provide sufficient lead time to accommodate the minimum 15-month advance notice requirement.

The acceleration of the overlay to the first quarter of 2000 would unduly shorten the available time to conduct the PEP to acclimate the public to the new dialing changes. Such an early implementation date for an overlay would also be in conflict with the policy adopted in D.96-12-086 calling for the continued use of geographic splits for area code relief implemented prior to the January 1, 2001. The scheduled date for the overlay in January 2001 will also provide additional time for the development of number pooling and other potential measures to maximize the availability of numbers in the 714 NPA for all carriers in the interests of competitive neutrality.

We shall direct the NANPA to convene an industry meeting within 60 days following the effective date of this decision for the purpose of addressing the implementation details of the public education program for the overlay to include, at a minimum, the elements discussed above. The program should give first priority to the 714 NPA and surrounding areas, and should provide for a combination of press releases, television and radio announcements, and billing inserts discussing the effects of the overlay. The Industry Team shall submit a draft of the proposed public education program to the Commission's Consumer Services and Telecommunications Divisions and Public Advisor's Office for Commission review and approval, to be scheduled by ALJ ruling. The Public Advisor will work in cooperation with the Consumer Services and Telecommunications Divisions, the assigned ALJ, the Coordinating

DRAFT

Commissioner for telecommunications and the Assigned Commissioner in reviewing the proposed plan.

#### VIII. Conclusion

On balance, we conclude that, while both the overlay and geographic split will have certain adverse impacts to the extent they disrupt the status quo, the overlay will have less overall adverse impacts than the geographic split alternative proposed for the 714 NPA. We believe the problems with an overlay largely relate to its novelty and the need for a transition period for customers to grow accustomed to the change in dialing procedures. These problems should be adequately resolved through appropriate customer education and the practical experience of making calls within region subject to the 714 NPA overlay. Accordingly, we approve the overlay option for the 714 NPA, and direct the Industry Team to move expeditiously to implement an overlay to relieve exhaustion of the 714 NPA.

### IX. Comments on Draft Decision

The draft decision of the ALJ in this matter	was mailed to the parties in
accordance with PU Code § 311(g) and Rule 77.1	of the Rules of Practice and
Procedure. Comments were filed on	and reply comments
were filed on .	

### Findings of Fact

- 1. Area code relief is needed due to the impending exhaustion of NXX codes in the 714 NPA projected to occur during the first quarter of 2000.
- 2. The Area Code Relief Coordinator convened a series of meetings with the telecommunications Industry Planning Team to discuss and develop relief alternatives for the 714 NPA.
- 3. The Industry Team eliminated alternative plans which failed to meet the designated criteria, but was unable to reacle consensus on a single relief plan.

- 4. The Industry Team narrowed the alternatives to two options: (1) an overlay; and (2) a two-way split.
- 5. The Commission has stated in D.96-08-028 that "before an overlay could be approved, there must be reasonable assurance that permanent LNP would be fully implemented before the overlay became operational."
- 6. Without permanent LNP, an overlay in the 714 NPA would not be competitively neutral.
- 7. Absent the availability of LNP, customers subject to an overlay might have to change area code merely as a result of changing service providers, placing CLCs at a competitive disadvantage.
- 8. FCC Order 96-286 established that all carriers, both incumbents and new entrants, must provide LNP in the 100 largest MSAs to all requesting telecommunications carriers, by December 31, 1998.
- 9. By any reasonable measure, there is an ample cushion of time to allow for any debugging of the LNP implementation and still have LNP fully operational within the 714 NPA before the opening of the overlay scheduled for January 6, 2001.
- 10. FCC Order 96-333 required that every carrier was to be assured of at least one NXX code in the existing area code during the 90-day period preceding the introduction of any overlay which may be approved.
- 11. In view of the contingency measures adopted in this decision, sufficient NXX codes will be available to permit the NANPA to assign at least one code in the 714 NPA to each certified carrier within the service area who does not presently have one during the last 90 days preceding the opening of the overlay, as required by the FCC.

- 12. Since it takes 66 days for the NANPA to complete the code opening process, a schedule is needed for carriers to notify the NANPA of their code orders sufficiently in advance to allow the codes to be opened on a timely basis.
- 13. PU Code Section 7931's requirement for a permissive and mandatory dialing period only applies where existing area codes are changed as part of a relief plan to acquaint customers with the area code change.
- 14. Since the area code for existing telephone numbers does not change in an overlay, the permissive or mandatory dialing as defined in PU Code Section 7931 does not apply, although a transitional period is still need to educate customers before a new area code overlay is established through an overlay.
- 15. D.96-12-086 required mandatory 1+10-digit dialing within the region subject to an overlay to prevent an anticompetitive dialing disparity between customers of competing carriers who lacked equivalent access to NXX codes in the old NPA.
- 16. D.96-12-086 required that a customer education program be instituted at least 12 months before an overlay would take effect explaining the new mandatory 1+10-digit dialing requirements and the overlay plan to the public.
- 17. D.96-12-086 directed that, upon activation of the overlay area code, customers who dial seven digits will hear an instructional recording informing them of the 1+10-digit dialing requirement.
- 18. D.96-12-086 identified certain minimum elements to be included in the customer education plan, including an explanation why mandatory 1+10-digit dialing is necessary, and assurance that the change in their dialing patterns will not affect the rates charged for calls.
- 19. The results of the consumer preference poll reviewed in D.96-12-086 must be evaluated in light of the increasing hardship of cumulative changes in area

DRAFT

code, and the difficulty in fairly devising successive splits of the same NPA over time.

- 20. As the 714 NPA faces further shrinkage in the current proposal for code relief, the drawing of boundaries that minimize the splitting of local communities becomes increasingly difficult.
- 21. The shorter the NPA life, the more frequently customers must be subjected to the disruptions and hardships that come with changing area codes yet again.
- 22. The overlay avoids the contentiousness of drawing new NPA boundaries by leaving existing boundaries intact, and avoids the need for existing customers to change their existing telephone number area code.
- 23. Over the long-term, overlays tend to divide communities inasmuch as communities will not be identifiable by a single area code. Over the long term, this effect may be more pronounced than the community rifts that are introduced by area code splits.
- 24. A geographic split creates economic hardships particularly on affected businesses which must notify customers of area code changes, and change business cards, letterheads, advertisements, etc.
- 25. With an overlay, geographic boundaries no longer define a single NPA, thereby eliminating the advantage of having geographically-defined NPA boundaries as a means of identifying and unifying communities of interest.
- 26. A business may consider an assignment of the overlay NPA less desirable than the original NPA, since customers may perceive the business with the new NPA to be newer or less established than the neighboring business that retains the more recognized original NPA.
- 27. The ILECs possess the majority of NXX codes in the 714 NPA, and may seek to offer numbers to customers from NXX codes in the 714 NPA after the overlay as a marketing tool.

DRAFT

- 28. Number pooling can promote more competitively neutral access to numbering resources for all participating carriers by enabling multiple carriers to share a single NXX code through the technology associated with permanent LNP.
- 29. An audit of code utilization within the industry will be required to determine the maximum number of NXXs or blocks of 1,000 numbers that can be recovered from pooling participants for sharing.
- 30. With an overlay, customers will experience the loss of seven-digit dialing for calls within the same NPA.
- 31. In the consumer preference surveys reviewed in D.96-12-086, customers placed significant value on the ability to dial only seven digits for calls within the NPA.
- 32. Although customers in the 714 NPA may already be accustomed to dialing 1+10 digits for a portion of their calls, the overlay will still require them to learn that calls within the same area code also require 1+10-digit dialing.
- 33. With the overlay, customers with multiple lines at the same location seeking to add additional lines may only be able obtain the additional lines under the new area code, resulting in two area codes at the same location.
- 34. While both the overlay and geographic split have certain adverse impacts, the overlay will have less overall adverse impacts than the geographic split alternative proposed for the 714 NPA.

#### Conclusions of Law

- 1. The adopted relief plan should be the alternative which best satisfies the criteria applied by the Industry Team in their selection of relief alternatives, namely:
  - a. Minimize end users' confusion.
  - b. Balance the cost of implementation for all affected parties.

- c. Provide that customers who undergo number changes shall not be required to change again for a period of eight to 10 years.
- d. Not favor a particular interest group.
- e. Cover a period of at least five years beyond the predicted date of exhaustion.
- f. Provide that all of the codes in a given area shall exhaust about the same time in the case of splits. In practice, this may not be possible, but severe imbalances, for example, a difference in NPA lifetimes of more than 15 years, should be avoided.
- g. Comply with state and federal statutes, rulings and orders.
- 2. In order to qualify for approval, the overlay plan must meet the minimum criteria established by this Commission and by the FCC for competitive neutrality at the date by which the overlay would take effect.
- 3. The adoption of the proposed overlay for the 714 NPA satisfies the prescribed criteria for competitive neutrality, and provides the best overall solution based upon the relief planning criteria applied by the Industry Team.
- 4. The proposed overlay plan should be approved in accordance with the terms and conditions adopted in the order below.
- 5. The customer education program to acquaint customers with mandatory 1+10-digit dialing and the overlay, as ordered in D.96-12-086, should incorporate the features set forth below.
- 6. Since permissive 1+10-digit dialing already is in place for some telecommunications carriers, customers should be encouraged to voluntarily dial 1+10-digits for calls where permissive 1+10-dialing is available within their NPA as part of the education program during the year leading up to the overlay. Telecommunications carriers shall notify their customers as to whether permissive 1+10 is available in their area.

- 7. The recorded instructional announcement alerting customers who dial seven digits to dial 1+10-digits should be continued indefinitely by all telecommunications carriers following the date the 714 NPA overlay area code is opened.
- 8. The public education plan should focus attention on the education of all classes of customers including children, the elderly, the disabled, as well as the non-English speaking groups in the current 714 NPA.
- 9. The education program should cover customers in adjacent NPAs, since customers therein will still be impacted by the 714 NPA dialing requirements to the extent they temporarily visit and make calls within the 714 NPA region.
- 10. To a lesser extent, some public education regarding this overlay plan needs to be conducted on a statewide basis, recognizing that California is a highly mobile state, and residents from northern California may have occasion to travel into the 714 NPA calling area.
- 11. The industry should give priority to notifying security alarm companies, customers with PBXs, and other entities which will need to reprogram equipment as a result of the change to mandatory 1+10-digit dialing.
- 12. The Commission should place a high priority on promoting the development of measures to promote the efficient utilization of NXX codes so that CLCs are not competitively disadvantaged by limited access to numbering resources after the overlay is established.
- 13. As an interim measure, given their existing pool of numbers in the 714 NPA, Pacific and GTEC should be ordered to identify the percentage utilization for all blocks of 1,000 numbers within the NXX codes assigned to them in the 714 NPA, and to report this information to the Director of the Commission's Telecommunications Division within 30 days of the issuance of this order.

DRAFT

14. As an interim measure until further procedures have been developed in California for 1,000-block pooling, number assignments made by the ILECs to their customers in the 714 NPA should be made first from NXXs that have more than 25% utilization. This measure will preserve NXX codes with 25% utilization or less for number pooling solutions once those solutions are implemented.

#### ORDER

#### IT IS ORDERED that:

- 1. The proposed overlay plan for the 714 Numbering Plan Area (NPA) as presented by the North American Numbering Plan Administrator (NANPA) identified as Alternative 1 is hereby approved.
- 2. All telephone corporations shall implement permissive 1+10-digit dialing by January 6, 2000 and mandatory 1+10-digit dialing on October 7, 2000 in the 714 NPA.
- 3. All telephone corporations are hereby ordered to proceed with all due diligence to expeditiously implement the approved 714 NPA overlay relief plan, with the new area code to take effect on January 6, 2001.
- 4. No later than June 1999, the NANPA shall notify the general public by press release regarding the new area code to be assigned as an overlay covering the same geographic area as the existing 714 area code. The notice shall set forth the schedule for mandatory 1+10-digit dialing effective October 7, 2000 and for the new area code to be activated effective January 6, 2001.
- 5. Each telephone corporation, including paging companies and resellers, serving the geographic area covered by the existing 714 NPA shall give written notice to its affected customers of the adopted 714 NPA overlay relief plan without delay and no later than June 1999. The notice shall advise customers that as to whether that telephone corporation offers permissive 1+10-digit dialing to

DRAFT

reach numbers within their own area code in preparation for the pending overlay, and that 1+10-digit dialing will become mandatory within the boundaries of the 714 area code as a result of the new overlay area code and that such dialing will be effective on October 7, 2000.

- 6. The NANPA shall provide nationwide notification of the adopted 714 NPA relief plan by no later than October 1999.
- 7. The NANPA shall convene an Industry Team meeting within 60 days following the effective date of this decision for the purpose of developing consensus on the implementation of the public education program for the overlay to include, at a minimum, the elements discussed in Decision 96-12-086, and in the conclusions of law above, and the schedule for mandatory 1+10 digit dialing.
- 8. All customer owned pay telephone providers within the 714 NPA shall update their signage to reflect mandatory 1+10-digit dialing instructions by October 7, 2000.
- 9. The public education program shall give first priority to focusing on the 714 NPA and surrounding areas, and provide for a combination of press releases, television and radio announcements, and billing inserts explaining the effects of the overlay.
- 10. The Industry Team shall submit a draft proposal for the public education program, including a proposed budget and funding proposal, to the Commission's Consumer Services and Telecommunications Divisions and Public Advisor's Office for review and approval as scheduled by the assigned Administrative Law Judge (ALJ). The review and approval shall be coordinated among the Public Advisor, the Consumer Services and Telecommunications Divisions, the assigned ALJ, the Coordinating Commissioner for telecommunications, and the Assigned Commissioner.

- 11. Any existing certificated facilities-based competitive local carrier (CLC) which has not previously been assigned a 714 NPA NXX code, shall file a "Statement of Intent" with the CNCA if it seeks to be assigned such a code in the 90 days prior to the implementation of the overlay, to be filed by September 30, 1999.
- 12. Any new facilities-based CLCs becoming certificated or intending to become certified between September 30, 1999, and the activation of the overlay NPA in January 2001 shall be required to notify the NANPA within 30 days of certification if they intend to request a 714 NPA NXX code prior to January 2001.
- 13. The NANPA shall reserve the requisite NXX codes to satisfy the FCC code assignment requirement within the 714 NPA.
- 14. To the extent NXX codes are needed to meet the FCC requirement, additional codes shall be reserved from the lottery to be made available to new entrants without any existing codes in the 714 NPA.
- 15. Within the final 90 days preceding the opening of the overlay NPA, the NANPA shall declare a freeze on further assignments of 714 NPA codes, with the exception of new entrants who require one code to satisfy FCC requirements. The Commission, on its own motion or at the request of the NANPA, reserves the option to reevaluate this freeze as the availability of NXX codes through January 2001.
- 16. The assigned ALJ is directed to take further comments on appropriate measures regarding the assignment of telephone numbers from NXX codes in the 714 NPA after the overlay NPA is activated in order to promote competitive neutrality.
- 17. As an interim measure until further procedures have been developed in California for 1,000-block pooling, number assignments made by the ILECs to their customers in the 714 NPA shall be made first from NXXs that have more

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R.95-04-043, I.95-04-044 ALJ/TRP/sid

DRAFT

than 25% utilization. The ILECs may assign numbers from NXXs with less than 25% utilization only to the extent necessary where numbers from NXXs with more than 25% utilization are not otherwise available.

- 18. Pacific and GTEC shall identify the percentage utilization for all blocks of 1,000 numbers within the NXX codes assigned to them in the 714 NPA, and report this information to the Director of the Commission's Telecommunications Division within 30 days of the issuance of this order.
- 19. Pacific and GTEC shall each be required to file a report explaining whether permanent LNP is fully implemented in the 714 NPA region served by each incumbent local exchange carrier by June 30, 1999. The report shall be address whether any remaining LNP-related call completion problems are being experienced and shall be filed with the Commission and served on each party to this proceeding by July 7, 1999. In the event permanent LNP is not yet fully operational, the report shall set forth a contingency plan to address the failure to meet the FCC deadline.

This order is effective today.	
Dated	, at San Francisco, California.